

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER PAGAN,

Plaintiff,

-against-

9:08-CV-0724 (LEK/GJD)

SUPERINTENDENT BROWN, BRIGGS,
DONALD WILLIAMS, MRS. ROBERTO¹,
VERN FONDA,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on June 28, 2009, by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 28).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge DiBianco's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

¹ Plaintiff's Complaint makes allegations against "Mrs. Robergo." Dkt. No. 1. According to the Acknowledgment of Service, the person in question is Andrea Roberto. (Dkt. No. 14). The Court will refer to this Defendant by using the correct spelling.

ORDERED, that the Report-Recommendation (Dkt. No. 28) is **APPROVED** and
ADOPTED in its **ENTIRETY**; and it is further

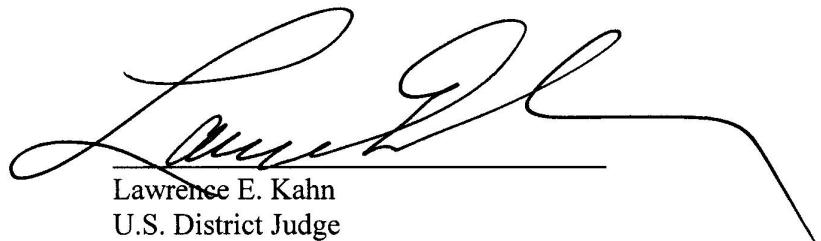
ORDERED, the Motion to dismiss by Defendants Brown, Roberto, Fonda (Dkt. No. 19) and Williams (Dkt. No. 21) is **GRANTED** and the Complaint is dismissed as to Defendants Brown, Roberto, Fonda and Williams; and it is further

ORDERED, that Defendant Briggs' Motion to dismiss (Dkt. No. 20) is **GRANTED in part** with respect to Plaintiff's verbal sexual harassment and ADA claims and **DENIED in part** with respect to Plaintiff's Eighth Amendment claims of sexual abuse; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: August 19, 2009
Albany, New York



Lawrence E. Kahn
U.S. District Judge